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DEPARTMENT OF COMMERCE
International Trade Administration
C-580-869

Large Residential Washers from the Republic of Korea: Final Affirmative Countervailing Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of large residential washers (washing machines) from the Republic of Korea (Korea). For information on the estimated subsidy rates, see the “Suspension of Liquidation” section of this notice.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Justin M. Neuman or Milton Koch, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0486 and (202) 482-2584, respectively.

SUPPLEMENTARY INFORMATION:

Background

The U.S. producer that filed the petition for this investigation is Whirlpool Corporation (hereafter, Whirlpool, or “petitioner”). The mandatory respondents in this investigation are: (1) Samsung Electronics Co., Ltd., and its cross-owned affiliates Samsung Electronics Service and Samsung Electronics Logitech (collectively, Samsung); (2) LG Electronics and its cross-owned affiliate, ServeOne Co., Ltd. (ServeOne) (collectively, LG); and (3) Daewoo Electronics Corporation (Daewoo).

Period of Investigation

The period of investigation for which we are measuring subsidies is January 1, 2011, through December 31, 2011.

Case History

The following events have occurred since the Department published the Preliminary Determination.¹ From May through September 2012, the Department issued several supplemental questionnaires to participating respondents. Those parties timely responded to the Department's supplemental questionnaires. In addition, on August 6, 2012, the Department published the Scope Amendment.²

On September 7, 11, and 13, the Department issued verification outlines to the Government of Korea (GOK), LG, and Samsung, respectively. The Department conducted verification from September 17, 2012, through September 27, 2012. On October 22, 2012, the Department issued verification reports for the GOK, Samsung, and LG. On October 31, 2012, the GOK filed its case brief. LG and Samsung filed case briefs on November 2, 2012. On November 7, 2012, the petitioner filed a rebuttal brief. The Department held a public hearing on November 17, 2012, based on the timely requests of the petitioner, Samsung, and LG.

As explained in the Memorandum from the Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29, through October 30, 2012. Thus, all

¹ See Large Residential Washers From the Republic of Korea: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination, 77 FR 33181 (June 5, 2012) (Preliminary Determination).

² Large Residential Washers From the Republic of Korea: Amendment to the Scope of the Countervailing Duty Investigation, 77 FR 46715 (August 6, 2012) (Scope Amendment).

deadlines in this segment of the proceeding have been extended by two days. The revised deadline for this final countervailing duty (CVD) determination is December 18, 2012.³

Scope Comments

In the Preliminary Determination, the Department stated that it was evaluating comments filed by the parties regarding the scope in the companion antidumping duty investigation. That analysis was placed on the record of this investigation in the Scope Amendment, in which we modified the description of the scope of the investigations in the manner requested by the petitioner to exclude top-load washing machines with a vertical rotational axis and a rated capacity of less than 3.70 cubic feet. On July 25, 2012, LG requested a modification to the scope. The petitioner filed its opposition to LG's request on August 27, 2012. We did not modify the scope as requested by LG for purposes of this final determination.⁴ In the briefs filed by parties, LG and the petitioner commented on the Scope Amendment and LG's request to alter the scope of the investigation.

Scope of the Investigation

The products covered by this investigation are all large residential washers and certain subassemblies thereof.

For purposes of this investigation, the term "large residential washers" denotes all automatic clothes washing machines, regardless of the orientation of the rotational axis, except as noted below, with a cabinet width (measured from its widest point) of at least 24.5 inches (62.23 cm) and no more than 32.0 inches (81.28 cm).

Also covered are certain subassemblies used in large residential washers, namely: (1) all

³ See Memorandum to the Record from Paul Piquado, Assistant Secretary for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Hurricane Sandy" (October 31, 2012).

⁴ See accompanying Memorandum to Paul Piquado, Assistant Secretary for Import Administration, Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Large Residential Washers from the Republic of Korea (Decision Memorandum) at Comment 2.

assembled cabinets designed for use in large residential washers which incorporate, at a minimum: (a) at least three of the six cabinet surfaces; and (b) a bracket; (2) all assembled tubs⁵ designed for use in large residential washers which incorporate, at a minimum: (a) a tub; and (b) a seal; (3) all assembled baskets⁶ designed for use in large residential washers which incorporate, at a minimum: (a) a side wrapper;⁷ (b) a base; and (c) a drive hub;⁸ and (4) any combination of the foregoing subassemblies.

Excluded from the scope are stacked washer-dryers and commercial washers. The term “stacked washer-dryers” denotes distinct washing and drying machines that are built on a unitary frame and share a common console that controls both the washer and the dryer. The term “commercial washer” denotes an automatic clothes washing machine designed for the “pay per use” market meeting either of the following two definitions:

- (1) (a) it contains payment system electronics;⁹ (b) it is configured with an externally mounted steel frame at least six inches high that is designed to house a coin/token operated payment system (whether or not the actual coin/token operated payment system is installed at the time of importation); (c) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level, or spin speed for a selected wash cycle setting; and (d) the console containing the user interface is made of steel and is assembled with security fasteners;¹⁰ or
- (2) (a) it contains payment system electronics; (b) the payment system electronics are

⁵ A “tub” is the part of the washer designed to hold water.

⁶ A “basket” (sometimes referred to as a “drum”) is the part of the washer designed to hold clothing or other fabrics.

⁷ A “side wrapper” is the cylindrical part of the basket that actually holds the clothing or other fabrics.

⁸ A “drive hub” is the hub at the center of the base that bears the load from the motor.

⁹ “Payment system electronics” denotes a circuit board designed to receive signals from a payment acceptance device and to display payment amount, selected settings, and cycle status. Such electronics also capture cycles and payment history and provide for transmission to a reader.

¹⁰ A “security fastener” is a screw with a non-standard head that requires a non-standard driver. Examples include those with a pin in the center of the head as a “center pin reject” feature to prevent standard Allen wrenches or Torx drivers from working.

enabled (whether or not the payment acceptance device has been installed at the time of importation) such that, in normal operation,¹¹ the unit cannot begin a wash cycle without first receiving a signal from a bona fide payment acceptance device such as an electronic credit card reader; (c) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level, or spin speed for a selected wash cycle setting; and (d) the console containing the user interface is made of steel and is assembled with security fasteners.

Also excluded from the scope are automatic clothes washing machines with a vertical rotational axis and a rated capacity of less than 3.70 cubic feet, as certified to the U.S. Department of Energy pursuant to 10 CFR § 429.12 and 10 CFR § 429.20, and in accordance with the test procedures established in 10 CFR Part 430.

The products subject to this investigation are currently classifiable under subheading 450.20.0090 of the Harmonized Tariff System of the United States (HTSUS). Products subject to this investigation may also enter under HTSUS subheadings 8450.11.0040, 8450.11.0080, 8450.90.2000, and 8450.90.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Decision Memorandum, which is hereby adopted by this notice. A list of the subsidy programs and the issues that parties raised and to which we responded in the Decision Memorandum is attached to this notice as an

¹¹ “Normal operation” refers to the operating mode(s) available to end users (i.e., not a mode designed for testing or repair by a technician).

Appendix. The Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum is also accessible on the Web at <http://www.trade.gov/ia/>. The signed Decision Memorandum and the electronic versions of the Decision Memorandum are identical in content.

Use of Facts Otherwise Available, Including Adverse Inferences

For purposes of this final determination, we have continued to rely on facts available and have continued to apply adverse inferences in accordance with sections 776(a) and (b) of the Tariff Act of 1930, as amended (Act), to determine the countervailable subsidy rate for one respondent, Daewoo. A full discussion of our decision to apply adverse facts available (AFA) is presented in the Decision Memorandum in the section "Application of Facts Available, Including the Application of Adverse Inferences."

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated an individual countervailable subsidy rate for each respondent. Section 705(c)(5)(A)(i) of the Act states that for companies not individually investigated, we will determine an all-others rate equal to the weighted average of the countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and de minimis countervailable subsidy rates, and any rates based entirely on AFA under section 776 of the Act.

In this investigation, the only non-de minimis rate not based entirely on AFA is the rate calculated for Samsung. Consequently, the rate calculated for Samsung is also assigned as the "all-others" rate. For Daewoo, which did not participate in this investigation, we have

determined the subsidy rate based solely on AFA, in accordance with sections 776(a) and (b) of the Act.¹² Therefore, we determine the total estimated net countervailable subsidy rates to be:

Company	<u>Ad Valorem</u> Net Subsidy Rate
Daewoo Electronics Corporation	72.30 percent
LG Electronics Inc.	0.01 percent
Samsung Electronics Co., Ltd.	1.85 percent
All-Others	1.85 percent

As a result of our Preliminary Determination and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from Korea, other than those produced/exported by LG, which received a de minimis countervailable subsidy rate in the Preliminary Determination, entered or withdrawn from warehouse, for consumption on or after June 5, 2012, the date of the publication of the Preliminary Determination in the Federal Register. In accordance with section 703(d) of the Act, we subsequently issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after October 3, 2012, but to continue the suspension of liquidation of all entries from June 5, 2012, through October 2, 2012.

If the ITC issues a final affirmative injury determination, we will issue a CVD order and reinstate the suspension of liquidation, and we will require a cash deposit for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

¹² See the “Application of Facts Available, Including the Application of Adverse Inferences” section of the Decision Memorandum.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a negative final injury determination, this notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

December 18, 2012
Date

APPENDIX

Subsidy Valuation Information

- **Cross-Ownership and Attribution of Subsidies**
- **Allocation Period**
- **Interest Rate Benchmarks For Loans**

Application of Facts Available, Including the Application of Adverse Inferences

Analysis of Programs

- **Programs Determined To Be Countervailable**
 - KDB and IBK Short-Term Discounted Loans for Export Receivables
 - Income Tax Programs
 - Research, Supply, or Workforce Development Investment Tax Deductions for “New Growth Engines” under RSTA Article 10(1)(1)
 - Research, Supply, or Workforce Development Expense Tax Deductions for “Core Technologies” under RSTA Article 10(1)(2)
 - Tax Reduction for Research and Manpower Development: RSTA 10(1)(3)
 - RSTA Article 25(2) Tax Deductions for Investments in Energy Economizing Facilities
 - RSTA Article 26 Tax Deduction for Facilities Investment
 - Gwangju Metropolitan City Production Facilities Subsidies: Tax Reductions/Exemptions under Article 276 of the Local Tax Act
 - Grant Programs
 - GOK Subsidies for “Green Technology R&D” and its Commercialization
 - GOK 21st Century Frontier R&D Program / Information Display R&D Center Program
 - Support for SME “Green Partnerships”
 - Grants Discovered at Verification
- **Program Determined To Be Not Countervailable**
 - K-SURE - Short-term Export Credit Insurance
- **Programs Determined To Be Not Used**
 - Daewoo Restructuring
 - GOK-Directed Equity Infusions under the Daewoo Workout
 - GOK-Directed Ongoing Preferential Lending under the Daewoo Workout
 - IBK Preferential Loans to Green Enterprises
 - KEXIM Export Factoring
 - GOK Supplier Support Fund Tax Deduction

Analysis of Comments

Comment 1: Scope Exclusion of Smaller Top-Load Washers

Comment 2: Request to Exclude Larger-Width Washers from the Scope

Comment 3: Whether Samsung's Export Receivables that Were Negotiated with KDB and IBK are Loans

Comment 4: Whether the Department Erred in Selecting a Benchmark Interest Rate to Measure the Benefit to Samsung under the KDB/IBK Loan Program

Comment 5: Whether Premiums Charged by K-SURE are Adequate to Cover the Long-Term Operating Costs and Losses of the Program

Comment 6: Whether RSTA Article 10(1)(3) is De Facto Specific

Comment 7: Whether Income Tax Credits Should be Attributed to Non-Subject Merchandise

Comment 8: Whether RSTA Article 25(2) is De Facto Specific

Comment 9: Whether RSTA Article 26 is Regionally Specific

Comment 10: Whether the Department Should Offset Exempted Acquisition or Registration Taxes by the Amount of Special Rural Development Tax Paid

Comment 11: Whether the Green Technology R&D Program is Countervailable

Comment 12: Whether Grants Received by Samsung under the "21st Century Frontier and Other R&D Programs" Program are Countervailable

Comment 13: Whether the Department Should Adjust Samsung's Total Sales Denominator to Exclude Sales of Services or Goods Manufactured Outside of Korea

Comment 14: Whether the Department Erred in Its Calculation of the Subsidy Rate for LG's Use of the "Green Technology R&D" Program

Comment 15: Whether the Department Erred in Finding that the "SME Green Partnerships" Program Provides a Benefit to LG

Comment 16: Whether the Department Erred in Attributing Subsidies Received by ServeOne to LG

Comment 17: Whether the Department Should Continue to Find Other Programs to be Not Countervailable

Comment 18: Whether the Department Should Countervail Other Grants Received by Samsung that were Identified at Verification

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